

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FRANCISCO LORA,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 3:23-34
	)	Judge Nora Barry Fischer
MICHAEL UNDERWOOD, WARDEN,	)	Magistrate Judge Keith Pesto
F.C.I. LORETTO,	)	
	)	
Respondent.	)	

**MEMORANDUM ORDER**

AND NOW, this 31st day of December, 2024, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith A. Pesto on June 18, 2024, (Docket No. 7), recommending that the § 2241 habeas petition filed by Petitioner Francisco Lora against Warden Michael Underwood be dismissed preservice because he failed to exhaust administrative remedies and that his petition challenging his ineligibility for earned time credits under the First Step Act would otherwise be moot given a subsequent BOP policy change, Petitioner's Response which was timely filed within 14 days as directed by the Magistrate Judge but fails to establish that he exhausted administrative remedies prior to initiating this habeas action, (Docket No. 8), and this matter having been recently reassigned to the undersigned for prompt disposition of the matter, (Docket No. 9), and upon independent review of the record and de novo consideration of the Magistrate Judge's Report and Recommendation, which is ADOPTED as the opinion of this Court,

IT IS HEREBY ORDERED that Petitioner's Objections (Docket No. 8) are OVERRULED, as dismissal of this action, without prejudice, for failure to exhaust

administrative remedies, is consistent with rulings made in this District, *see e.g., Saavedra-Ramirez v. Peters*, No. 3:23-CV-268-KAP, 2024 WL 2136679, at \*2 (W.D. Pa. Mar. 12, 2024), *report and recommendation adopted*, No. CV 3:23-268, 2024 WL 1550379 (W.D. Pa. Apr. 10, 2024), *appeal dismissed sub nom. Saavedra-Ramirez v. Dir. Fed. Bureau of Prisons*, No. 24-1738, 2024 WL 4677955 (3d Cir. July 18, 2024) (District Court upholding dismissal for failure to exhaust when the habeas petition was filed prior to the exhaustion of administrative remedies and appeal dismissed), and it further appears to the Court that Petitioner has initiated a new habeas action at CA 3:24-215 *Lora v. Colette S. Peters*, Docket No. 4 (W.D. Pa. Oct. 15, 2024), challenging an unrelated disciplinary action which attaches an updated computation of his sentence by the BOP DSSC stating that he is eligible for FSA credits, and the BOP Inmate Locator also reports that his projected release date has been moved up to September 24, 2026, (compare with Docket No. 8-2 indicating a prior release date of August 1, 2027),

IT IS FURTHER ORDERED that the Petition (Docket No. 6) is DISMISSED, without prejudice, for failure to exhaust administrative remedies; and,

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

*s/Nora Barry Fischer*  
 Nora Barry Fischer  
 Senior U.S. District Judge

Dated: December 31, 2024

cc/ecf: Magistrate Judge Keith A. Pesto

cc: FRANCISCO LORA  
 92091-054  
 F.C.I. Loretto  
 P.O. Box 1000  
 Cresson, PA 16630 (via first class mail)